
**U.S. Department of Health and Human Services**

**Centers for Medicare & Medicaid Services**

**Denver Region**

# FINAL REPORT

## Wyoming Adults with Developmental Disabilities Aged 21 and Over

**Control #0226.90.R2.03**

**September 5, 2008**

## Executive Summary:

The Centers for Medicare Medicaid Services CMS conducted a quality review of the Wyoming Home and Community Based Services HCBS waiver serving adults with developmental disabilities age 21 and older. As a result of the evidence submitted by the State and information gathered since approval of the waiver the State demonstrated compliance with all six assurances required for waiver approval as set forth in 42 CFR §441 subpart G.

This HCBS waiver originated in April of 1991 and is currently operating in its third renewal period effective July 1, 2004 through June 30, 2009. The waiver is operated by the Wyoming Department of Health Developmental Disabilities Division the Division a separate division under the same department as the single State Medicaid agency the Office of Health Care Financing.

The mission of the Division is to provide funding and guidance responsive to the needs of people with developmental disabilities and acquired brain injuries to live, work, enjoy, and learn in Wyoming communities with their families friends and chosen support services and support providers. It is the philosophy of the Division to develop reasonable and enforceable rules procedures and practices for the provision of services to individuals with developmental disabilities and acquired brain injuries in community settings in lieu of unnecessary institutionalization.

The CMS conducted the review in accordance with the Interim Procedural Guidance (IPG) which has been in effect for assessing home and community based waiver programs since January of 2004 with the latest revision effective February of 2007. One of the main purposes of the IPG was to standardize the approach CMS utilized when assessing waiver programs as it transitions its quality oversight approach to one that incorporates both the assurance of statutory requirements and promotion of quality improvement.

## Introduction:

Pursuant to 1915(c) of the Social Security Act the Secretary of the Department of Health and Human Services has the authority to waive certain Medicaid statutory requirements to enable a State to provide a broad array of home and community based services as an alternative to institutionalization. The CMS has been delegated the responsibility and authority to approve State HCBS waiver programs

The CMS must assess each home and community based waiver program in order to determine that State assurances are met. This assessment also serves to inform CMS of possible issues in its review of the State s request to renew the waiver In accordance with federal regulations at 42 CFR §430.25(h) (3) the renewal request must be submitted to CMS at least 90 days before the currently approved waiver expires. The CMS strongly recommends that the State submit the renewal through the web based 1915(c) HCBS application process which will save the State time and efforts in submitting future amendments and renewals.

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| **State Waiver Name:** | Wyoming Adult Developmental Disabilities Home and Community Based Waiver |
| **Administrative Agency:** | Wyoming Department of Health, Office of HealthCare Financing |
| **Operating Agency:** | Wyoming Developmental Disabilities Division |
| **State Waiver Contact:** | Jamie Staunton, Adult Waiver Program Manager |
| **Target Population:** | Developmentally disabled adults age 21 or older |
| **Level of Care:** | Intermediate care facility for mentally retarded persons with related conditions |
| **Number of Waiver Participants:** | Current waiver Year 4, effective 7/1/07 - 6/30/08, the State was approved to serve 1308 unduplicated recipients, and 1323 for waiver year 5. |
| **Average Per Capita Waiver Costs:** | Current waiver Year 4, the annual estimated average waiver cost per person, as amended, was approved at 61,344; and waiver year 5 was approved at $62,632. |
| **Effective Dates of Waiver:** | 7/1/04 – 6/30/09 |
| **Approved Waiver Services:** | Case Management; Subsequent Assessment; Residential Habilitation; Day Habilitation; Pre Vocational; Supported Employment; In-Home Support; Personal Care Services; Medical Equipment (New/Repair); Environmental Modifications (New/Repair); Occupational Therapy; Speech, Hearing, Language Services; Dietician; Respite; Nursing; Physical Therapy; Respiratory Therapy |
| **CMS Contact:** | Trinia Hunt, Financial Management Specialist, Denver Regional Office |

## I. State Conducts Level of Care Determinations Consistent with the Need for Institutionalization

**The State must demonstrate that it implements the processes and instrument(s) specified in the approved waiver for evaluating/reevaluating an applicant's/waiver participant's level of care consistent with care provided in a hospital, nursing facility, or ICF/MR.**
*Authority: 42 CFR §441.301-303; State Medicaid Manual (SMM) 4442.5; 1915(c) Version 3.5 HCBS Waiver Application and corresponding Instructions, Technical Guide & Review Criteria.*

**CMS Finding:** The State substantially met this assurance.

**Evidence Supporting this Conclusion:**

The Wyoming Developmental Disabilities Division (DDD) determines clinical eligibility for the waiver through the psychological evaluation and Inventory of Client and Agency Planning (ICAP). Financial eligibility is determined by the Department of Family Services. After clinical and financial eligibility are determined the LT-MR-104 form is used to determine the Level of Care for all applicants for the Adult Developmental Disabilities (DD) waiver.

The Level of Care form is also completed annually to assure the waiver participant still meets an ICF/MR level of care when the annual service plan submitted to the DDD for approval. These forms are completed by the case manager with information on the diagnosis and level of support and supervision taken from the psychological evaluation medical documentation for a related condition and the ICAP.

Although the State provided information on the processes and monitoring activities related to this assurance it also submitted the required evidence and its own Remediation/Action Plan in which to address State identified issues. The following evidence and Remediation/Action Plan were submitted by the State that demonstrated compliance with this assurance:

**Evidence: Sub assurance: An evaluation for level of care is provided to all applicants for whom there is a reasonable indication that services may be needed in the future.**

1. 162 people applied for the Adult DD Waiver in Fiscal Year 2007.
2. 26.5% (43) of applicants were participants on the Children's DD Waiver who were applying to be on the Adult DD Waiver starting on their 21st birthday without service interruption.
    A. The Adult DD Waiver eligibility criteria is the same for Children's DD Waiver participants, and Wyoming offers a transition to the Adult Waiver with no wait, if the person continues to meet eligibility criteria .
3. 11.7% (19) of applicants did not complete the eligibility process for the waiver.
4. 27.1% (44) of applicants were found clinically eligible for the Adult DD Waiver and were notified of their eligibility and placement on the wait list for services.
5. 3% (5) of applicants were notified of their ineligibility for the Adult DD Waiver based on the psychological evaluation and were notified through an Adverse Action/Denial of Eligibility letter which included information on the right to a Fair Hearing.

6. 31.4% (51) of applicants stayed active in the eligibility process but they were not determined eligible or ineligible by the end of Fiscal Year 2007, i.e., these cases were still pending.
7. During Fiscal Year 2007, 27 applicants on the Adult DD Waiver wait list received funding letters. *Some of them were applicants during Fiscal Year 2006.*

A. After receiving a funding letter the case manager worked with the applicant on determining *financial eligibility* for the waiver through the Department of Family Services.

8. Before the service plan was submitted to the Division for approval, 100% (27 level of care (LT-MR 104)) forms were completed for each applicant receiving a funding opportunity by his/her chosen case manager.

A. No waiver funding was made available to a participant through an approved service plan until the level of care form was approved by the Waiver Specialist, which assured the person met the level of care needed to qualify for waiver services.

9. All LT-MR-104 forms and other eligibility documents were submitted with the service plan and reviewed for approval by Waiver Specialists in the Developmental Disabilities Division when initial service plans were submitted.

A. Clinical eligibility documents were submitted and did not have ineligible diagnosis or scores for the applicants who received funding letters in Fiscal Year 2007.

B. If an error was found on the LT-MR-104 form, the Waiver Specialist contacted the case manager for corrections.

C. The corrected form was then resubmitted to the Division before the plan was approved.

D. No plans were approved without a complete level of care determination.

Wyoming Remediation/Action Plan:

To explain a gap identified in the system, referring to Evidence item 3 above, Division staff discussed the number of applicants who did not complete the eligibility process in Fiscal Year 2007 for the Adult DD Waiver. Staff noted that applicants usually have various reasons for not completing the process, such as transient living or homelessness, not choosing a case manager, changing their minds etc. However, the Division does not have a system in place to determine whether a person has not progressed in the eligibility process in two months or more. Therefore, no Division staff routinely followed up on an applicant unless he/she resurfaced through a phone call to the Division, a crisis or by word of mouth from a provider or concerned citizen.

To help improve the Division's follow-up on applicants to assist them in getting needed services, Division staff proposed developing a tickler system in an electronic application database. The system would track dates of application and dates of choosing the case manager and if more than two months go by with no further action, then a reminder for follow up would be sent to the Area Resource Specialist. The electronic application system will be web-based and implemented at approximately the same time as the electronic plan of care, which the proposed timeline for implementation is January 2010.

In reference to Evidence item 9 D, no service plans were approved without qualifying clinical eligibility documentation, financial eligibility, and a complete level of care determination, but

the Division did not collect data on the number of level of care forms that were incorrect and returned to the case manager. Beginning July 1, 2008 Waiver Specialists will track the number of level of care determination forms that need to be corrected by the case manager. If a trend, is identified where many forms need corrections by a certain case management organization, then follow up consultation will be made by the waiver staff to resolve the problem and offer training on the form to the organization.

**Evidence: Sub assurance: The level of care of enrolled participants is reevaluated at least annually or as specified in the approved waiver.**

1. In Fiscal Year 2007, 100% (1280) Adult DD Waiver participants had LT-MR-104 forms (Level of Care) completed by the case manager before the submission of the annual service plan.
2. 100% (1280) annual service plans, which included the Level of Care determination form, were reviewed by a Waiver Specialist at the Developmental Disabilities Division before the service plan was approved.
    A. If the form was incorrect then the Waiver Specialist contacted the case manager for corrections.
    B. The form was then resubmitted to the Division before the plan was approved.
    C. No plans were approved without a complete level of care determination.

Wyoming Remediation/Action Plan:

Although no plans were approved without a complete level of care determination the Division did not collect data on the number of forms that were returned to the case manager. Beginning July 1, 2008 Waiver Specialists will track the number of level of care determination forms that need to be corrected by the case manager. If a trend is noticed, where many forms need corrections by a certain case management organization then follow up consultation will be made by the waiver staff to resolve the problem and offer training on the form to the organization.

**Evidence: Sub assurance: The process and instruments described in the approved waiver are applied appropriately and according to the approved description to determine participant level of care.**

1. 100% (1280) of Adult DD Waiver service plans were reviewed for the following eligibility requirements as required the Wyoming Adult DD Waiver:
    A. Psychological evaluation
    B. ICAP
    C. Financial eligibility as reported in MMIS
    D. LT-MR-104

2. Two plans of care submitted for approval had new psychological evaluations in which the persons' diagnoses changed resulting in them no longer being eligible for waiver services.
    A. In these cases, the Adult Waiver Manager followed the loss of eligibility rule and process in the Wyoming Medicaid Rules Chapter 41.

i. In each case the Waiver participant was given notification of the loss of eligibility, was offered an administrative hearing, and given 45 days to transition out of waiver services.

Wyoming Remediation/Action Plan:

The monitoring process will continue with no action plan to change at this time.

**CMS Recommendation:**

As part of the State's processes to determine eligibility, the level of care determination via the Wyoming LT-MR-104 Form is a critical step because if the person does not meet the level of care, he or she is not eligible for waiver services. This is a step the State is currently waiting to complete until after the person has been put on the waiting list and funding becomes available. Thus, the CMS recommends ensuring the LT-MR-104 Form is completed earlier on in the process such as around the same time that the psychological evaluation is conducted and before time and money is spent on completing the ICAP.

**State Response:**

The Division will take this recommendation under advisement as we work on the waiver renewal. The recommendation would require a change in Wyoming Medicaid Rule, Chapter 41 that states the LT-MR-104 is completed after the ICAP is received. Information from the ICAP helps verify the functional limitations of the individual which is part of the LT-MR-104 Level of Care determination.

Since the ICAP is one of the four qualifying evaluations for eligibility on the Adult DD Waiver, we have been advised by our Attorney General's office to administer this evaluation before evaluating eligibility.

**CMS Final Response:** No further comments.

**II. Service Plans are Responsive to Waiver Participant Needs**

**The State must demonstrate that it has designed and implemented an adequate system for reviewing the adequacy of service plans for waiver participants.**
*Authority: 42 CFR §441.301-303; SMM 4442.6; SMM 4442.7; 1915(c) Version 3.5 HCBS Waiver Application and corresponding Instructions, Technical Guide & Review Criteria.*

**CMS Finding:** The State substantially met this assurance.

**Evidence Supporting Conclusion:**

The State provided information on the processes and monitoring activities related to this assurance. For clarification purposes, the Survey/Certification Unit of the Division is responsible for the annual recertification of all providers. This process includes, when

appropriate, an on-site visit and a review of a random sample of participants receiving services to evaluate the implementation of each participant's plan of care. The State indicated that organizations, on average, serve approximately 75 participants. The sample the State pulls is 10% with a maximum of ten files and is representative of the number of people on each waiver served by the provider.

Like noted in the previous section, it also submitted the required evidence and its own remediation and action plan in which to address identified issues. The following evidence and Remediation/Action Plan were submitted that demonstrated compliance with this assurance:

**Evidence: Sub-assurance: Service plans address all participants' assessed needs (including health and safety risk factors) and personal goals, either by waiver services or through other means.**

1. In Fiscal Year 2007, 100% (1280) of service plans were reviewed and approved by a Waiver Specialist prior to services being delivered. For service plans that required changes, the case manager submitted corrections for all areas of concern. The reviews assured the following:
   A. The service plan addressed the supervision and support needs of the participant based on information from the psychological evaluation, ICAP, other assessments if included, and medical, health and safety concerns listed.
   B. The "About Me" section questions were answered with participant and/or guardian input and reflected the participant's goals, likes, dislikes, interests, hobbies, and natural supports.
   C. The objectives and schedules reflected the personal goals, interests, and health and safety information listed elsewhere in the plan.
   D. Services on the plan, both waiver and non-waiver, were appropriate for the participant's needs.
   E. A positive behavior support plan was included when maladaptive behaviors were identified in the assessments or elsewhere in the service plan.

Wyoming Remediation/Action Plan:

After the Wyoming Medicaid rules were promulgated for the Adult DD Waiver in December 2006 in which they received public input, case managers and Division staff were required to work in compliance with the new rules. This impacted the service plan approval system and required a new collaboration with the Division and case managers to learn the rules, use the new provider manual for additional guidance, follow the IPC guidelines and sample tools on the website, and build service plans with more detail and cohesiveness than previously required.

The State reported that while the Waiver Specialists reviewed service plans in accordance with the rules, the case managers were not fully knowledgeable of the rules and did not submit plans that were fully in compliance. Therefore, to build the collaborative and consultative relationship with providers, Division staff provided education to case managers and other providers to correct problem areas of the plan by phone consultation, comment pages, and

through Division trainings. After all areas of concern were addressed, though, plans were approved without disrupting services for the participant.

In the fall of 2007, the Adult Waiver Specialists began using a database to track the problems identified on service plans and the areas of the plan, which required a comment page to be sent to the case manager. The database tracks all plans submitted for the month and also tracks each topic where a comment was asked by the specialist. It highlights plans that have ongoing problems or concerns, so follow up can be tracked. By gathering data in this area and analyzing it quarterly, the Division can schedule trainings for providers in general or organization-specific when trends are noticed.

Prior to the database, details of the most problematic areas of the plan that caused the most confusion and frustration with providers were not collected by category or by frequency in a data report. In asking Waiver Specialists to list the most problematic areas, they all responded to the same key areas, which were positive behavior support plans, objectives, and rights restrictions.

In identifying the key problematic areas of the plan, the Division formed working groups with various stakeholders in November 2007 to discuss the rules and revise the plan guidelines and forms to provide clear expectations to the service plan After working on these areas with stakeholders and Division staff, Division managers finalized policies and procedures and revised the service plan instructions so that they were more consistent, compliance and streamlined across all three waivers administered by the Division.

The Division updated the service plan forms to correspond with the new expectations and requirements the Division implemented based on input from the working groups. The new service plan was introduced in two April 2008 Provider trainings and will be required for all plans as they come due after June 30, 2008.

Other enhancements to the service plan will be implemented when the Division switches to an electronic plan of care, currently under development and scheduled to be implemented in January 2010. One area or gap the Division plans to address with the electronic plan is to assess more non-waiver supports and services used or available to the participant. Currently, the service plan has the case manager mark a box if non-waiver services are used. Standard non-waiver services are listed, such as SSI, SSDI, Food stamps, and Housing, and the service used is underlined. Although a few extra boxes are available to be marked for services not listed, rarely are other services described or marked. The electronic plan is also going to assess and capture information in other gaps we have identified such as participant risks, natural supports, and structure for developing a positive behavior support plan and objectives.

In some cases, when the service plan does not fully address a health, safety or medical need of the participant, the Division will make a referral to APS Healthcare. This organization will investigate and advise a participant's team on extraordinary circumstances, health and safety concerns, complaints, or other protocols to explore in serving a person in a community-setting.

**Evidence: Sub-assurance: State monitors service plan development in accordance with its policies and procedures.**

1. Area Resource Specialists attended 30% of all Adult DD Waiver team meetings for Fiscal Year 2007.
2. There were 33 referrals to the Division's Program Integrity Survey Certification Unit regarding Adult DD Waiver providers and 33% (11) identified concerns with case management compliance.
   A. 100% (11) of the providers were required to submit a quality improvement plan addressing the non-compliance
   B. The Survey/Certification unit of the Division monitored implementation of all of the quality improvement plans to assure that the providers addressed the non-compliance appropriately.

Wyoming Remediation/Action Plan:

The Division held an all staff meeting in July 2007, so staff in the different units of the Division could identify gaps in the system, including service plan development and plan approval. Information on gaps identified at this meeting and comments made by case managers and providers during site surveys resulted in many items needing to be addressed. Primarily, the expectations of the waiver specialists in approving plans did not coincide with how service plans were developed by the participant's team and case manager.

One approach used to help narrow the gap between plan development and plan approval by Division staff was to revise the service plan guidelines, or instructions, that are available to providers as a tool in plan development. The guidelines being used were developed before the rules were promulgated in December 2006, so they were not fully encompassing all of expectations set forth in the rules. Therefore, the plans submitted to the Division had gaps in them.

In November 2007, the Division created working groups involving providers, case managers and various waiver staff from different units to address key problematic areas of the plan of care to come to a consensus on certain items and develop more specific criteria and instructions in other areas to make the plan easier to develop in accordance with the rules.

In March 2008, the revisions to the service plan instructions were made, distributed to providers, and posted to the Division's website. Provider training on the changes and service plan expectations was facilitated by the Waiver Managers to inform them about the changes, expectations, and tools available. Training was completed in April 2008 through video conferencing and DVDs of the trainings were made available to providers who could not attend the training.

The main topic discussed in these on-site meetings over the last year has been objectives. When only one agency is present, the Division is able to work on case-specific issues and brainstorm solutions to the problems. Occasionally, the problems mentioned by a case manager also relate to the lack of training provided by the Division on areas such as writing meaningful and measureable objectives, developing positive behavior support plans, gathering baseline

data, and meeting the expectations of Division staff in all areas of plan development, implementation and follow up.

After the working groups and managers finalize the specifications and revised guidelines to the three most problematic service plan components, trainings will be held with providers to review and educate them on the full requirements by April 2008. Also, to assist providers with developing positive behavior support plans, objectives, and discussing right restrictions with participants and families, the Division has developed tools to post on its website, which offer prompts for discussion, key areas to address, and sample formats to use.

The Division has scheduled additional regional trainings for spring and summer 2008 to address gap areas in plan development. Topics include: team meetings, transitions, and IPC instructions. The Division has contracted with a psychologist to conduct regional trainings in summer 2008 on writing positive behavior support plans and performing a functional analysis for a behavior plan.

**Evidence: Sub-assurance: Service plans are updated or revised at least annually or when warranted by changes in the waiver participant's needs.**

1. 100% (1280) of service plans for each waiver participant were reviewed and approved by a Waiver Specialist to assure the participant's needs and wishes were addressed as fully as possible and the plan complies with the rules.
2. 100% of modifications to the service plan submitted to the Division were reviewed by a Waiver Specialist, although not all of them were approved. Reasons for not approving a modification to the service plan included:
   A. A modification that did not meet the participant's health, safety, or medical needs, or
   B. A modification that included a non-certified service provider, or
   C. The modification amount exceeded the Individually Budgeted Amount (IBA) for the participant, then:
      i. The modification went to ECC to seek approval for additional funding, or
      ii. The modification was withdrawn by the case manager.
3. Of the 1280 Adult DD Waiver plans approved by the Division during fiscal year 2007, 5% (64) of the plans went through the ECC process to approve funds above the IBA to meet service needs for the participant.
   A. 3% (35) of all 1280 Adult DD Waiver participants received additional funding as a result of the ECC process.
   B. Of the 3% (35) ECC cases which received additional funding, 30 cases required follow-up monitoring as requested by the Adult Waiver Manager.
   C. The Survey/Certification unit of the Division completed follow-up monitoring after the funding was approved to assure that participants were receiving the additional services and to assure that the additional services/funding was still needed.

Wyoming Remediation/Action Plan:

While providers are learning the new rules and expectations required in the service plan, Waiver Specialists have also been asked to visit provider organizations. They conduct trainings and analyze where each organization is having difficulty and identify solutions and ideas for the organization to improve.

Through the provider recertification process and the complaint process the Division continues to identify concerns with lack of documentation or insufficient documentation by case managers' specifying how they are monitoring the implementation of plans of care, completing follow-up on concerns found with implementation, and making changes to the plan as needed. The Survey/Certification Unit of the Division is in the process of revising the case managers' monthly quarterly documentation tool to provide more clear guidelines on the specific type of monitoring and documentation case managers are required to complete. This tool will be completed and distributed by July 1, 2008 and re-education of case managers on the requirements for monitoring implementation of plans of care and completing follow-up on concerns or changes needed to the plans will be completed by September 2008.

**Evidence: Sub-assurance: Services are delivered in accordance with the service plan including the type, scope, amount, duration, and frequency specified in the service plan.**

1. In fiscal year 2007, Area Resource Specialists attended approximately 32% (757) of annual, six month or other team meetings for participants on the Adult DD Waiver, providing guidance and education.
2. The Survey/Certification unit of the Division completed annual recertification of 100% of the certified Adult DD Waiver providers (683) in fiscal year 2007, including, when appropriate, review of implementation of plans of care for participants.
   A. 5% (35) of the 683 Adult DD Waiver providers received recommendations during their recertification due to concerns with implementation of the plans of care.
      I. 21% (6) of CARF organizations, who serve approximately 75% of participants on the Adult DD Waiver, received at least one recommendation identifying concerns with the implementation of plans of care.
      II. 4% (29) of non-CARF providers received at least one recommendation identifying concerns with the implementation of plans of care.
         a. 100% of the providers, who received a recommendation in this area, were required to submit a quality improvement plan to address the concerns with the implementation of the plans of care.
         b. The Survey/Certification unit completed follow-up monitoring on 100% of the cases to assure the concerns were addressed.
   B. 2% (12) of Adult DD Waiver providers received recommendations identifying concerns with case managers' documentation and follow-up on concerns in the monthly/quarterly reporting requirements.
      I. 21% (6) of CARF organizations received at least one recommendation identifying concerns with their monthly/quarterly documentation.
      II. 1% (6) of Non-CARF providers received at least one recommendation identifying concerns with their monthly/quarterly documentation.
         a. 100% of these providers were required to submit a quality improvement plan to address the concerns with their documentation.

b. The Survey/Certification unit completed follow-up monitoring on 100% of the providers to assure the concerns were addressed.

3. The Survey/Certification Unit received 65 complaints involving participants on the Adult DD Waiver in fiscal year 2007. *Review of all complaint statistics can be found under the Evidence in the Qualified Providers section of this evidentiary report.*

A. Five of the complaints indicated case management non-compliance with rules and regulations, including concerns with monitoring implementation of the plan of care.

I. One of the complaints regarding case management non-compliance with rules and regulations was substantiated and the provider was required to submit a quality improvement plan to address areas of non-compliance.

II. The Survey/Certification unit of the Division completed follow-up monitoring on this case to assure the concerns were addressed.

B. 100% of providers receiving recommendations through these monitoring processes were required to submit quality improvement plans to address areas of non-compliance.

4. As a state participant in the National Core Indicator project, the Division contracted with the Wyoming University Center for Excellence in Developmental Disabilities, Wyoming Institute for Disabilities (WIND). Interviews were conducted and surveys were completed anonymously to gather information.

A. Through the National Core Indicator project, 33% of Adult DD Waiver participants were interviewed in 2006-2007 for the consumer survey.

I. 100% of participants state that they know their service coordinator.
   a. The State average for the 20 states participating in the project is 90.5%.

II. 95.5% of participants state that their service coordinator asks them about their preferences.
   a. The State average for the 20 states participating in the project is 74.7%.

III. 96% of participants state that their service coordinator helps them get what they need.
   a. The State average for the 20 states participating in the project is 77.8%.

IV. 98.6% of participants interviewed stated that they were satisfied with their work or day programs.
   a. The State average for the 20 states participating in the project is 97%.

V. 98.4% of participants stated they were satisfied with their home.
   a. The State average for the 20 states participating in the project is 97%.

B. In addition to the standard NCI project, an additional questionnaire was mailed to waiver families and participants through the National Core Indicator Project. These questions were added to the survey by the State of Wyoming and not used by most other states in the project so there is no comparison data available. Results of the questionnaire indicate:

I. 87% of the respondents marked that their case manager seemed "always or usually" sufficiently monitor the quality of services their family receives.

II. 89% of the respondents marked that their case manager "always or usually" supports them when they approach him/her with suggestions on how to best meet their family's needs

III. 84% of the respondents marked that their case manager "always or usually" asks regularly how their services are going and whether their needs have changed.
   a. Participants were given the option of providing their contact information if they had concerns that they would like the Division to address, but none of the participants responding with concerns during these surveys chose to provide that information.
   b. The staff at WIND completing the surveys are mandatory reporters and are required to report suspected abuse, neglect, exploitation and self-neglect to the Division, the Department of Family Services, Protection and Advocacy, the case manager, the guardian and, if law enforcement if they believe a crime has been committed.
      1. No reports were made during the 2006-2007 survey.

Wyoming Remediation/Action Plan:

In early 2006, the Division identified concerns with case managers' documentation of monitoring the implementation of plans of care. While documentation was being completed, it was often not specifically identifying concerns or follow-up actions taken to address concerns. This was most notably identified in the area of case management review of utilization of services for each participant, and health/safety changes such as weight loss or gain, changes in seizure activity etc.

Effective July 1, 2006 the Division revised the monthly/quarterly requirements and sample form to more specifically include this information. While completing monitoring duties the Survey/Certification unit has identified improvements in this area and the number of recommendations specific to case management documentation is decreasing. The result is that case managers are more thoroughly documenting the results of their review of the implementation of the plan of care and, when concerns are found, what follow-up actions are completed to address the concerns and whether these follow-up actions addressed the concerns.

However, through the provider recertification process and the complaint process the Division continues to identify concerns with lack of documentation or insufficient documentation by case managers' specifying how they are monitoring the implementation of plans of care, completing follow-up on concerns found with implementation, and making changes to the plan as needed. The Survey/Certification Unit of the Division is in the process of revising the case managers' monthly quarterly documentation tool to provide more clear guidelines on the specific type of monitoring and documentation case managers are required to complete. This tool will be completed and distributed by July 1, 2008 and re-education of case managers on the requirements for monitoring implementation of plans of care and completing follow-up on concerns or changes needed to the plans will be completed by September 2008.

The Area Resource Specialists (ARS) continue to provide education and feedback during the plan of care meetings, and they are identifying significantly fewer concerns with review of implementation of plans of care. Team meeting notes are completed after each team meeting

the ARS attends. These notes are shared with Waiver Managers, Waiver Specialists and Survey/Certification staff. Monthly data collected, indicates that choice was/wasn't offered, that fiscal concerns were discussed and health and safety issues were discussed and resolved. Monthly data from team meeting notes also reflects any provider compliance issues.

The Division does not review data collection to ensure quantifying data accurately reflects the percent of providers who received recommendations on training. The Division is working with the Wyoming Department of Health Information and Technology (IT) Division to restructure our database so it is more streamlined and easier to extract data.

Based on the collaboration, the Division is working with IT to develop a Comprehensive Provider Management System that will streamline both the tracking of individual monitoring activities and aggregating and analyzing data by waivers, by provider, by categories, and by priority levels.

**The timeline for the system is as follows:**

- Proposal for system completed by January 2008
- Contract finalized in February 2008
- First components of system developed and tested by April 2008
- Second major components of system developed and tested by June 2008
- Final major components of system developed and tested by August 2008
- First reports generated by October 2008.

During this development process Survey/Certification staff with the DDD will continue to track data in the current databases.

**Evidence: Sub-assurance: Participants are afforded choice: 1) between waiver services & institutional care; and 2) between/among waiver services and providers.**

1. 28% (353) of all team meetings attended by Area Resource Specialists were transition meetings. The transition process verified that participants and families were offered choice and exercised their right to change providers.
2. 100% (1280) of all service plans approved included a "Notice of Choice" form signed by the participant and/or guardian verifying choice of provider had been given.

Wyoming Remediation/Action Plan:

Although data is collected on the number of transition meetings attended, it is not collected by waiver type. Beginning July 2008, the number specific to each waiver will be collected. Non-compliance with the transition requirements increases the health and safety risks of participants as they move from one location to another or one service provider to another. Therefore, the Division will review the data to determine if a case manager is failing to comply with the transition rules. If this is found, the Survey/Certification unit will require the provider to submit a quality improvement plan and will monitor the provider's compliance with the plan.

Recently, Area Resource Specialists started collecting data at team meetings regarding a participant or guardian's response in verifying that choice was offered. Beginning July 2008, this data will be collected per waiver. The Division will review the data to look for trends to determine if a specific provider is not routinely offering choice. If this trend is found the provider will be required to submit a quality improvement plan specifying how they are going to comply with the requirement to offer choice. The Survey/Certification unit of the Division will monitor the provider's compliance with the quality improvement plan.

**CMS Recommendations:**

1) In regard to the changes being made in collaboration with the Wyoming Department of Health Information and Technology (IT), please provide more detail as to what these changes will do relative to the Quality Improvement Strategy, and what the State plans to do with the information generated from these reports.

2) Please include the IT changes in the CMS-372 reports under the quality section.

3) Please ensure when providing future evidence that the source of the information for service plans is generated at the individual level, not the provider level. In other words, how is the State monitoring any impact on the individuals and ensuring any correction at the provider level translates to better service planning and implementation for the individual?

**State Response:**

1. The Division currently collects data from monitoring activities in a variety of databases that are not linked or automated. Compilation and analysis of the data is cumbersome, labor intensive, and it is difficult to identify trends across monitoring activities. The web-based system being developed in collaboration with the Department of Health Information and Technology will allow the Division to collect, track and analyze the data across monitoring activities in a more reliable, timelier, and more efficient manner. Trends will be able to be identified more quickly, and tracking of non-compliance will be easier to manage. Therefore, while the data and information collected will not change drastically, the ability to access, analyze and respond to trends identified will be significantly improved. The majority of the data currently collected was reported in this Evidentiary Report, and will continue to be used to provide evidence that the state is meeting the CMS assurances.
2. The Division will include IT changes in the CMS-372 lag report for Year 3, 2006-2007. This report will be sent to CMS no later than December 31, 2008.
3. 100% of all plans are reviewed by waiver specialists. The state will continue this practice to assure that plans are meeting individual needs. The information generated at the provider level will provide comparison data to evaluate if recommendations in this are decreasing. The Area Resource Specialist participation in meetings can be targeted to a specific organization if that data supports more intense supervision at team meetings.

**CMS Final Response:** No further comments.

## III. Qualified Providers Serve Waiver Participants

**The State must demonstrate that it has designed and implemented an adequate system for assuring that all waiver services are provided by qualified providers.**
*Authority: 42 CFR §441.302; SMM 4442.4; 1915(c) Version 3.5 HCBS Waiver Application and corresponding Instructions, Technical Guide & Review Criteria.*

**CMS Finding:** The State substantially met this assurance.

**Evidence Supporting Conclusion:**

Like in the previous two sections, the State provided information on the processes and monitoring activities related to this assurance. More importantly, it also submitted the required evidence and its own remediation and action plan in which to address identified issues. The following evidence and Remediation/Action Plan were submitted to demonstrate compliance with this assurance:

**Evidence: Sub-assurance: The State verifies that providers initially and continually meet required licensure and/or certification standards and adhere to other state standards prior to furnishing waiver services.**

1. The Survey Certification Unit certified 93 new providers for Adult DD Waiver services during fiscal year 2007. 100% of the providers met the qualifications for services and completed the Waiver Provider Manual training
2. The Survey Certification Unit of the Division recertified 100% of 683 providers who applied for recertification to provide Adult DD Waiver services during fiscal year 2007.
   A. 53% of non-CARF providers recertified received at least one recommendation that required submission of a quality improvement plan
      I. The most common recommendations made for Non-CARF providers were to address non-compliance with required policies and procedures, drills/inspections, and with incident reporting requirements
   B. 100% of CARF providers recertified received at least one recommendation that required submission of a quality improvement plan
      I. The most common recommendations made for CARF organizations were to address non-compliance with environmental concerns, incident reporting, and drills/ inspections
   C. 100% of all quality improvement plans were monitored for compliance by the Survey Certification Unit of the Division to assure that the areas of non-compliance were addressed appropriately.
3. The Division suspended 7 providers certified to provide Adult DD Waiver services during fiscal year 2007.
   A. 3 suspensions were due to non-compliance with rules that impacted health and safety and resulted in reinstatement of certification once the provider addressed the concerns.

I. The Survey/Certification unit continued to monitor the providers to assure adherence to the rules.

B. 2 suspensions were due to charges of assault and resulted in decertification.

C. 2 suspensions were due to substantiation of abuse/neglect from the Department of Family Services and resulted in decertification.

4. 50% (65) of the complaints received by the Division were regarding Adult DD Waiver services.

A. The Survey/Certification unit categorized and investigated 100% of the complaints

I. 3% (2) were Level 1 complaints that resulted in on-site visits.

II. 27% (18) involved billing/documentation concerns.

III. 26% (17) involved provider or case management compliance with rules/regulations.

IV. 23% (14) involved service quality.

V. 9% (6) identified potential health and safety concerns.

VI. 5% (3) identified possible rights restrictions.

VII. 5% (3) were filed as Division system-wide concerns.

VIII. 2% (1) identified concerns with confidentiality.

B. The Division completes follow up monitoring on 100% of the complaints that have been substantiated.

I. 8 were substantiated, resulting in the provider submitting a quality improvement plan to address the areas of non-compliance.

a. One Level 1 complaint was substantiated.

1. The Survey/Certification unit completed on-going monitoring of the provider for a six month period.

b. Three (3) billing/documentation complaints were substantiated resulting in a referral to the Office of Healthcare Financing for recovery of funds and education of provider on the documentation standards.

c. Three (3) provider or case management compliance complaints were substantiated.

d. One service quality complaint was substantiated.

e. No potential health and safety complaints were substantiated.

f. No possible rights restrictions complaints were substantiated.

g. No confidentiality complaints were substantiated.

II. The Survey/Certification unit monitored implementation of the quality improvement plans to assure the concerns were addressed.

5. The Area Resource Specialists completed 33 referrals to the Survey Certification Unit due to concerns with Adult DD Waiver provider compliance.

A. 11 of the referrals (33%) identified concerns with case management compliance

B. 7 of the referrals (21%) identified concerns with health and safety

C. 6 of the referrals (18%) identified concerns with billing and/or documentation

D. 5 of the referrals (15%) identified concerns with provider compliance to rules

E. 3 of the referrals (9%) identified concerns with the quality of services

F. 1 of the referrals (4%) identified concerns with rights and rights restrictions

I. 3 of these referrals were substantiated resulting in the provider completing a quality improvement plan to address the areas of concern.

a. The Survey/Certification Unit of the Division monitored compliance with these plans to assure the concerns was addressed.

6. Five of seven deaths (71%) that occurred between July 1, 2006 and December 31, 2006 were participants on the Adult DD Waiver.

   A. No significant concerns were found with the services provided, but two provider specific recommendations and one provider commendation were made.

      I. One recommendation related to documentation concerns:
         a. The provider was required to submit a quality improvement plan addressing non-compliance with the documentation standards.
         b. The Survey/Certification Unit of the Division completed follow-up monitoring to assure the provider addressed the concerns.

      II. One recommendation related to an incident that was not reported:
         a. The provider was required to file the incident report and to complete retraining on incident reporting with all staff.
         b. The Survey/Certification Unit of the Division continues to monitor adherence with the incident reporting requirements with this and all other providers through the provider recertification process and incident reporting process.

      III. One recommendation commending the provider's support of the participant through a terminal illness:
         a. A letter was sent to the provider commending them on the services provided.

Wyoming Remediation/Action Plan:

The Division promulgated rules in December 2006, including rules that specified provider requirements, certification and recertification requirements, and sanctioning authority. The rules include specific policies, procedures and processes that Non-CARF providers are required to develop. Throughout the rest of fiscal year 2007 Program Integrity staff worked with Non-CARF providers to assist them in developing these policies and procedures. In addition to the one-on-one assistance given to Non-CARF providers by Division staff, the Division has also developed sample policies and procedures for providers to reference. The most recent data indicates that the percentage of recommendations addressing non-compliance with policies and procedures is decreasing. A formal measure of this information will be completed in July 2008.

Provider and provider staff knowledge of the incident reporting requirements continue to be a major concern. As of August 2007, the Division began requiring providers to receive training on incident reporting from the Division when significant concerns with adhering to the incident reporting requirements was found, either through the recertification process, complaint process or incident reporting process. As of January 2008, three trainings have been completed. In addition, the Division has completed a module on incident report training and will be distributing the module on DVD by March 30, 2008. The Division has also scheduled regional trainings on incident reporting for calendar year 2008. All providers are required to attend the regional training, review the training module on DVD or develop their own training

that covers all the requirements included in the Division's trainings. The Division monitors compliance with this requirement during the provider recertification process.

The Division will continue to collect and analyze data on incident reporting requirements to determine if these action steps are addressing the concerns.

The Division continues to work with providers on the billing and documentation requirements. Effective January 2006, the Division began a formal process of reviewing documentation standards with providers and providers became required to sign a copy of the current documentation standards after this review. Division staff continues to educate providers on the requirements when concerns are found during recertifications or complaints. The Division has also strengthened the process of referring cases to the Office of Healthcare Financing (Medicaid) for possible recovery of funds. Improvements in this process included developing a referral cover sheet requiring Survey/Certification staff to submit specific information on the referral to Medicaid, requiring Survey/Certification staff to submit copies of the signed documentation standards and documentation of education completed with the provider prior to the recovery with the referral so it is clear that the provider had been trained on the documentation standards, and requiring that Medicaid provide the Division a copy of the recovery letter so the Division can assure the recovery has been completed. Current data being collected indicates that the percentage of concerns with billing and documentation are decreasing, but the data will be formally analyzed in July 2008 to determine if this trend continues.

The Division currently has a system monitoring process for this assurance, but is in the processing of enhancing data collection, tracking and analysis to assure that data is valid and reliable and to improve staff efficiency.

**Evidence: Sub-assurance: The State monitors non-licensed/non-certified providers to assure adherence to waiver requirements.**

Wyoming does not allow non-certified providers to provide any services under the Adult DD Waiver.

**Evidence: Sub-assurance: The State implements its policies and procedures for verifying that provider training is conducted in accordance with state requirements and the approved waiver.**

1. During the time period of July 2006 through June 2007, the Division provided various training topics to participants, families, guardians, providers, outside agencies, and the Division's advisory board.
2. Training flyers and listserv emails were sent to the previously mentioned entities describing the training sessions.
3. Listed on the following chart are the training sessions conducted by various DDD staff:

| Name of Training | Type of Media | Audience | Division Staff | # of sessions |
|---|---|---|---|---|
| Beginning ISC | Video Conference | Case Managers | Waiver Specialists | 1 |
| DDD Rules & Provider Manual | Video Conference | All Providers | All DDD Managers | 2 |
| Transition Meetings | 1:1 or small group | Case Managers | Area Resource Specialists | 20 |
| Team Meetings | 1:1 or small group | Case Managers, schools, other state agencies | Area Resource Specialists | 18 |
| Application Process | Small group | Case Managers | Area Resource Specialist | 3 |
| *Initial Provider Training | In person or by phone conference | All new providers | Survey/Certification | 130 |

4. No provider applicant received their provider ID enrollment number until they completed the Initial Provider training and signed a form stating as such.
5. There were 130 new providers certified who received the training on the provider manual from July 1, 2006 through June 30, 2007.
6. Quality Improvement Surveys of providers showed:
   A. 43% of the CARF organizations recertified had a recommendation on staff training.
   B. 32% of the Non-CARF organizations recertified had a recommendation on provider/staff training.

Wyoming Remediation/Action Plan:

Survey Certification staff enter the provider training recommendations into an Access database. This information is reviewed quarterly by management and Survey Certification staff to identify any trends. Both positive and negative trends are identified. The positive trends are reviewed to determine the impact of remediation actions the Division has taken in specific areas and to identify the strengths within our system. The negative trends are reviewed to identify appropriate action steps to take to address the trends. The management staff then agrees on methods to create change if the trends are of a negative nature.

The information derived from the database is shared with stakeholders to review and make suggestions for change. Stakeholders include the DDD Advisory Council, providers, participants and families. Through sharing the information on trends and areas of concern, the Division seeks to resolve the matters through forming working groups, developing new tools or guidance for provider or Division staff, or gathering input for making a system change in the new waiver application.

Training modules to accommodate providers for rule requirements are not fully completed. To address this issue, the Division will continue to develop and publish training DVDs to offer to providers in order for them to meet Chapter 45 rule requirements. The Division will also provide regional training across the state as another avenue for providers to meet Chapter 45 rule requirements. The training DVD modules will be completed by December of 2008.

Regional trainings are scheduled monthly through October 2008. Although attendance is not mandatory for the regional training, a provider is required by rule, to receive training as listed in Chapter 45. This can be accomplished by watching the DVD, then writing a summary of the module, and placing it in their file. The Survey/Certification unit will review these at the time of recertification.

The Division will continue to provide training for all new providers. We will also complete training DVDs and regional training on specific information that is required by Chapter 45 of the Division rules. Our website will include a yearly calendar of upcoming training sessions.

The Division does not review data collection to ensure quantifying data accurately reflects the percent of providers who received recommendations on training. The Division is working with the Wyoming Department of Health Information and Technology (IT) Division to restructure our database so it is more streamlined and easier to extract data.

Based on the collaboration, the Division is working with IT to develop a Comprehensive Provider Management System that will streamline both the tracking of individual monitoring activities and aggregating and analyzing data by waivers, by provider, by categories, and by priority levels.

**The timeline for the system is as follows:**

- Proposal for system completed by January 2008
- Contract finalized in February 2008
- First components of system developed and tested by April 2008
- Second major components of system developed and tested by June 2008
- Final major components of system developed and tested by August 2008
- First reports generated by October 2008.

During this development process Survey/Certification staff will continue to track data in the current databases.

**CMS Recommendation:**

Please include the above changes in the quality section of the CMS-372 reports.

**State Response:**

The Division will include changes on provider training in the CMS-372 lag report for Year 3, 2006-2007. This report will be submitted to CMS no later than December 31, 2008.

**CMS Final Response:** No further comments.

## IV. Health and Welfare of Waiver Participants

**The State must demonstrate that, on an on-going basis, it identifies, addresses, and seeks to prevent instances of abuse, neglect and exploitation.**
*Authority: 42 CFR §441.302-303; SMM 4442.4; SMM 4442.9; 1915(c) Version 3.5 HCBS Waiver Application and corresponding Instructions, Technical Guide & Review Criteria.*

**CMS Finding:** The State substantially met this assurance.

**Evidence Supporting Conclusion:**

The State provided the following additional information worth noting in this section: Assuring the health and welfare of participants is achieved through many processes on many levels of the service delivery system in Wyoming.

The plan of care includes sections on rights and rights restrictions, and other health and safety information to assure that the participant is receiving the appropriate level of support while maintaining as much independence as possible. The plan of care also includes an "About Me" section where the team, with the participant identifies significant events and achievements that occurred over the past year

Team meeting guidelines are in place to assist case managers through the team meeting process. The guidelines include a review of incidents and other health and safety concerns that need to be addressed in the plan of care.

Case managers complete a monthly home visit and observe services for each participant on their case load to assure services are being delivered in accordance with the plan of care. The monthly visit includes reviewing the delivery of services with the participant, and discussing any questions. If the case managers identify any concerns, including a participant's health and welfare, they are required to address the concerns in a timely manner.

Case managers also complete a quarterly review for each participant that includes a review of incidents that have occurred and identification of any significant changes in health status, to identify trends or areas where further follow-up is needed.

There is a potential to discover possible abuse or neglect throughout all these processes. If this occurs, all providers and provider staff as well as Division staff have the duty to report suspected abuse, neglect, exploitation, self neglect or abandonment per Wyoming State Statutes to the Department of Family Services, Protective Services Unit or law enforcement. Wyoming State Medicaid rules also require providers to report serious injuries, injuries due to restraints, police involvement, deaths, and elopements. Incidents are reported to the Department of Family Services, Protective Services Unit, the Division, Protection and Advocacy, Inc., the guardian, the case manager, and law enforcement if applicable.

Providers and provider staff are required to complete training on the Duty to Report and the incident reporting process, to assure incidents are reported in a timely manner. Providers are

expected to document follow-up on incidents that have occurred, and to analyze data and identify trends with incidents. Case managers are also required to review and follow up on reported incidents, including both critical incidents and internal incidents that do not meet the criteria for reporting to the Division.

Effective July 1, 2006 the Division strengthened its review of incident reports to assure that providers were reporting incidents appropriately to all required agencies. The incident reporting form and web-based version were reviewed to assure that the forms include verification of contact information for the Department of Family Services. Survey/Certification staff are required to contact the DFS office to verify that a report was received on all incidents reporting suspected abuse, neglect, exploitation, self-neglect, and abandonment. Survey/Certification staff also enhanced the review of participant files during provider recertifications, including review of internal incident reports and staff documentation for a random sample of participants to determine if incidents occurred that were not reported to the Division and DFS.

All providers must have a complaint process established, and are expected to work with the complainant to address the concerns in a professional manner. If during this process the complainant identifies potential abuse, neglect, exploitation, self-neglect or abandonment, the provider is required to report the incident to the appropriate authorities through the incident reporting process.

The Division also has a formal complaint process set up so a complainant can file a complaint with any Division staff and complaints can be filed anonymously. Information on how to file a complaint is included on the Division's website.

Protection and Advocacy Systems, Inc. completes Participant Rights trainings throughout the state, and includes in this training the rights of participants to be free from abuse, neglect and exploitation. In addition, Protection and Advocacy Systems, Inc. receives each incident report and, when appropriate, works with the Division to investigate the incident.

The mortality review process includes a review of all documentation of services for at least a six month period before the death, including a review of all incidents, to determine if there were any suspicions of abuse, neglect, exploitation or abandonment.

As in the previous assurances, the State also included its monitoring activities for this particular assurance. Due to the significance of assuring the health and welfare of waiver participants, the following State monitoring activities were included as part of this report: The Waiver Specialists review the plans of care to assure that they are addressing the health and safety needs of the participants, including the "About Me" section of the plan, which reviews significant events and information from the previous year. Waiver Specialists are also copied on each incident reported to the Division so they can assure that the new plan of care submitted addresses areas of concerns identified in the incidents if appropriate.

Area Resource Specialists attend at least 20% of team meetings and assures that the team reviews incidents and discusses trends or concerns. If there is any indication of possible abuse

or neglect the ARS instructs the provider or case manager to file an incident report and complete the appropriate follow-up. This information is also shared with the Survey Certification Unit, which then requires the provider to submit a quality improvement plan to assure that incidents are not going unreported.

The Survey Certification Unit of the Division manages the web-based incident reporting process that enables the Division to review incidents within one business day. The Division's Notification of Incident process includes:

- A web-based system for reporting incidents that includes specific information on the incident, antecedents, actions taken to assure participant's health and safety, and verification that all required agencies have received the report
- A priority level process that requires Survey Certification staff to review reported incidents within one business day to determine if an incident requires immediate follow-up (which is considered a level 1 incident)
    - When Level 1 incidents are reported, the Division has a protocol for working with the Department of Family Services, Protective Services unit and Protection and Advocacy Systems, Inc. to coordinate investigation of the incident and to share pertinent information
- Tracking incidents in the web-based system and directing appropriate Division staff to review the status of specific incidents, as well as to run reports on open incidents, incidents by provider, incidents by category etc.
- Substantiation of incidents of suspected abuse, neglect, exploitation or abandonment results in the provider or provider staff being terminated as an employee or provider.

The Survey Certification Unit manages the Division's complaint process, and reviews complaints to determine if there is any indication that abuse, neglect, exploitation and/or abandonment is occurring. If this is determined, then the complaint is reported through the Division's Notification of Incident process so that the Department of Family Services as well as the other appropriate agencies are informed.

The provider recertification process includes review of providers' documentation of services, including internal incident reports, to determine if incidents occurred that were not appropriately reported. If this is found, providers are required to report the incident, and develop and submit a quality improvement plan that addresses this area of non-compliance. The recertification process also includes interviews with providers and provider staff to determine if they are aware of their duty to report incidents.

The recertification process also includes review of a case manager's monthly/quarterly documentation to assure appropriate follow-up is completed on incidents and other health and safety concerns.

The mortality review process includes provider specific recommendations if non-compliance with rules and standards, including the incident reporting requirements, is identified.
If non-compliance with rule, regulations or standards is found through any of these processes the provider is given a recommendation and is required to address the area of concern by

submitting a quality improvement plan that includes specific action steps, responsible parties, and due dates. If the recommendation identifies concerns with health and safety, the provider is required to address the significant concerns immediately and submit a quality improvement plan within 15 business days. All other recommendations require a quality improvement plan within 30 calendar days.

The Program Integrity Unit completes monitoring activities to assure the provider is adhering to the quality improvement plan submitted and approved by the Division. Failure to submit an adequate plan or failure to adhere to a plan submitted can ultimately result in sanctions, including civil monetary penalties, suspension of a provider certification, or decertification.

The following evidence and Remediation/Action Plan were submitted to demonstrate compliance with this assurance:

**Evidence: Sub-assurance: On an on-going basis, the State identifies, addresses and seeks to prevent the occurrence of abuse, neglect and exploitation.**

1. 432 incidents were reported involving participants on the Adult DD Waiver in fiscal year 2007.
   A. 4% (19) incidents were considered priority level 1 and appropriate follow-up was completed.
   B. Of the eleven categories for reportable incidents, the two highest reported categories were Police Involvement and Serious Injuries.
2. 100% of 683 providers certified to provide Adult DD Waiver services were recertified to provide waiver services during fiscal year 2007.
   A. 20% of non-CARF providers received at least one recommendation pertaining to incident reporting.
   B. 57% of CARF providers received at least one recommendation pertaining to incident reporting.
      I. 100% of providers who were not in compliance in this area were required to submit a quality improvement plan.
      II. The Survey/Certification unit of the Division completed follow-up monitoring on 100% of these providers to assure that the quality improvement plan was implemented appropriately and the concerns were addressed.
3. Area Resource Specialists attended 30% of the team meetings for Adult DD Waiver participants and made 33 referrals to the Survey Certification Unit due to non-compliance concerns with Adult DD Waiver services.
   A. 7 of the 33 referrals (21%) for the Adult DD Waiver identified concerns with health and welfare.
      I. Two (2) of these referrals were substantiated by the Division resulting in the Survey/Certification unit of the Division required a quality improvement plan and completing follow-up monitoring to assure the concerns were addressed.
4. The Division received 65 complaints concerning Adult DD Waiver services.
   A. 6 of the 65 complaints (9%) involved concerns with health and safety and were reported to the Department of Family Services.
   B. None of the 6 complaints were substantiated as non-compliance with Waiver rules by the Division per Chapter 45

C. None of the 6 complaints resulted in substantiation of abuse, neglect or exploitation by the Department of Family Services.

5. 100% (1280) of service plans were reviewed by a Waiver Specialist, who checked the services, supports, behavior plans, and medical information listed to assure the health, welfare, and a participant's rights are addressed.
6. The Mortality Review process found no concerns identified with potential abuse, neglect, exploitation or abandonment.

Wyoming Remediation/Action Plan:

As of August 2007, the Division began requiring providers to receive training on incident reporting from the Division when significant concerns with adhering to the incident reporting requirements was found, either through the recertification process, complaint process or incident reporting process. As of January 2008, three trainings have been completed. In addition, the Division has completed a module on incident report training and began distributing the module on DVD March 30, 2008. The Division has also scheduled regional trainings on incident reporting for calendar year 2008.

In January 2006, the Division joined the statewide Adult Protective Services Team, which includes representatives from stakeholders throughout different agencies. The team was charged with improving education and communication between the various agencies and the Department of Family Services (DFS), Protective Services unit, to review current rules and statutes and recommend changes to strengthen Department of Family Service's authority and to identify other approaches to assure cases of suspected abuse, neglect and exploitation are reported and investigated. The team meets monthly. This collaboration has resulted in the following:

1. The Team worked with legislators to draft legislation authorizing funding to increase the number of adult protective services personnel throughout the state. The legislation passed, and to date, four additional adult protective service personnel have been hired.
2. The Developmental Disabilities Division participated in the initial training of the personnel, giving them more detailed information on the participants served on the waivers, the incident reporting process, and the collaboration that can occur between the Division and Department of Family Service when incidents are reported. The team has agreed that the Division will continue to participate in trainings of new DFS personnel as they are hired.

**CMS Recommendations:**

1. As part of the State response, please provide additional information in regard to how the State monitors and follows up on the use of medications (including medications used for behavioral purposes), restraints, seclusion and other restrictive measures.
2. Please expand on how the State uses its Division's quality reviews to assure the health and welfare of waiver participants.

**State Response:**

1. Medications: The Individual Plan of Care includes information on the medication needs of the participant. During the provider recertification process, the Division reviews a random sample of participants and reviews the implementation of their plan of care, including the monitoring and documentation of medications. However, the Division has identified a gap in

this area. Currently the Wyoming Nurse Practice Act does not allow for any delegation of medication administration or monitoring by licensed personnel, such as nurses. Provider staff is trained in monitoring medications and documenting but there is no formal Medication Aide Certification. The Division has developed a task force in conjunction with the Board of Nursing and other key stakeholders to address this gap. The task force is in the process of gathering information on how other states have addressed this issue, and is pursuing some type of medication aide program. The timeline for this project is tentatively set as follows:

- Compile and review information from other states by September 2008
- Identify best approach for Wyoming and develop framework for approach by November 2008
- Determine if legislative action is necessary and develop appropriate legislation if needed by December 2008
- If approved by legislation implement program starting July 1, 2009

Other restrictive measures:
The Division promulgated rules in December 2006 that provide clear and comprehensive standards on use of restraints and other restrictive measures. The rules prohibit the use of seclusion. The Division requires that restrictive measures such as restraint usage be ordered by a physician or qualified behavioral health practitioner, written in the participant's plan of care, reviewed and approved by the participant, guardian and Division. The rules also require that the least restrictive measures are attempted first, and that a positive behavior support plan be developed that focuses on positive interventions. The Division monitors compliance with these rules through the provider certification process, incident reporting process and complaint process. All providers and provider staff who serve participants with restraint usage written in their plan must be certified by a nationally recognized entity in restraint usage, such as MANDT or CPI. The Division sponsored training by a licensed psychologist in the Summer 2008 to provide training to case managers on writing positive behavior support plans.

During the provider certification process a random sample of participants are chosen to review the implementation of their plans of care.The review includes provider documentation review including documentation of restraint usage and other restrictive measures, interviews with participants, families and provider staff on usage of restrictive measures, and review of overall organizational data on use of restraints. The provider's restraint policy is reviewed to assure it meets the standards in the rules.

When restraint usage is reported through incidents or complaints the Division reviews the participant's plan of care to assure that restraint usage is authorized and that a positive behavior support plan is in place and was followed.

If non-compliance is found through any of these monitoring activities the provider is required to submit a quality improvement plan.

- For Fiscal Year 2007 57 providers received recommendations on non-compliance with the rules on restraint or rights restrictions.
- 100% submitted quality improvement plans addressing the recommendations.

- The Survey/Certification unit of the Division completed follow-up monitoring on 100% of these quality improvement plans and it was determined that the plans were implemented and the areas of non-compliance were addressed.

2. The major focus of the quality reviews completed by the Division is on health, welfare and rights. The quality reviews are centered on the provider recertification process, which covers three main areas:

- Assessing implementation of participants' plans of care, including specific health, welfare and rights concerns identified in the plan, observation of participants receiving services, interview of staff to assess staff knowledge of participants' needs and plan of care, interviews with participants, family and guardians to assess satisfaction with services and to identify any concerns, and review of participant documentation, including health related documents, staff communication logs, incident reports and other documents to identify specific health, welfare or rights concerns.
- Assessing the physical or environmental components of a provider's services, including inspecting service delivery sites, observing services being delivered to participants during peak times such as mealtimes, positioning times, during behavioral interventions, and at the different service settings, reviewing internal and external building inspections, emergency plans, and review of results of fire and other emergency drills in all service settings.
- Assessing organizational practices of providers, including review of policies and procedures on restraints, incident reporting, emergency drills, complaints, training modules and participant rights, reviewing a sample of staff files to assure staff meet the qualifications for services and have received all the required training, review of data collected on restraint usage, random observations and interviews with participants and provider staff to assess effectiveness of implementation of policies and procedures, review of recommendations made during the previous years Division certification, and review of recommendations made by CARF during the accreditation process that relate to health, safety and rights .

Reviews can also be completed as a result of an incident report or complaint received by the Division. Each incident and complaint is reviewed within one business day to assess the priority level. Incidents or complaints identifying serious concerns with health, safety or rights are "Level Ones" and are reviewed by the Program Integrity Manager and appropriate Waiver Manager to determine next steps, which can include an unannounced on site visit within ten business days. Information on complaints and incidents received for Fiscal Year 2007 are included elsewhere in the evidence report.

During any monitoring activity the Division has the authority to remove participants from a provider's service if it is determined that the participant is in imminent danger. For Fiscal Year 2007 there was one occurrence of imminent danger identified when the Division received notification that a provider providing residential habilitation services to two participants was going to be arrested on charges of a crime against a person and taken to jail. The Division coordinated with the participants' case managers, and the participants were placed in another service setting that afternoon. The provider was decertified.

As mentioned elsewhere in the evidentiary report, when non-compliance is identified by the Division the provider is required to submit a quality improvement plan to address the non-compliance. For recommendations that relate to health, safety or rights the plan is required to be submitted within 15 business days. The Division completes follow-up monitoring to assure the non-compliance has been adequately addressed.

**CMS Final Response:** No further comments.

**V. State Medicaid Agency Retains Administrative Authority over the Waiver Program**

**The State must demonstrate that it retains ultimate administrative authority over the waiver program and that its administration of the waiver program is consistent with its approved waiver application.**
*Authority: 42 CFR §431 et seq.; 42 CFR §441.301-303; SMM 4442.6; SMM 4442.7; 1915(c) Version 3.5 HCBS Waiver Application and corresponding Instructions, Technical Guide & Review Criteria.*

**CMS Finding:** The State substantially met this assurance.

**Evidence Supporting Conclusion:**

As part of the State's evidence submission, it described this assurance and monitoring activities as follows:

The waiver is operated by the Developmental Disabilities Division, a separate division within the Single State Agency. The Wyoming State Medicaid Agency has the ultimate administrative authority and responsibility for the operation of the waiver program. All official correspondences including waiver submission, waiver amendments, and 372 reports are reviewed and signed by the State Medicaid Agency. Although the Developmental Disabilities Division administers the day to day operation of the waiver, any changes are approved by the State Medicaid Agency and the agency is notified of any possible concerns.

All official correspondence including waiver submission, waiver amendments, and 372 reports are reviewed and signed by the State Medicaid Agency. All waiver providers are also Medicaid providers and must meet Medicaid enrollment requirements.

The State Medicaid Agency delegates approval of services to the Developmental Disabilities Division. All services must receive a prior authorization number that is assigned through the MMIS. All claims for waiver services are submitted electronically through the MMIS and all providers are paid through that system.

The Division finalized five administrative rules on waiver services in December 2006. These rules are Medicaid rules, and Medicaid staff were included as part of the stakeholder groups. Medicaid had final approval before these rules were promulgated.

There are additional monitoring activities in which a representative from Medicaid is part of the subcommittee. These include:

- **Extraordinary Care Committee** – a committee that reviews for requests for additional funding based on needs that are not identified in the model that determines the Individual Budget Amount
- **Mortality Review Committee** – a committee that reviews all deaths of waiver participants. Based on this review, both systemic and individual recommendations may be made.

Also, a representative from the Division works with the Medicaid Program Integrity Unit to investigate any irregularities in service or billing.

**Evidence: Sub-assurance: The Medicaid agency retains ultimate authority and responsibility for the operation of the waiver program by exercising oversight over the performance of waiver functions by other state and local/regional non-State agencies (if appropriate) and contracted entities.**

1. Meetings with Medicaid were scheduled as needed.
   A. The Extraordinary Care Committee met weekly as needed.
   B. The Mortality Review Committee met twice a year.
2. Correspondence was filed as required by CMS.
   A. Any concerns were reviewed by both the Medicaid Agency and the Developmental Disabilities Division.

Wyoming Remediation/Action Plan:

Although there have been no trends identified, there has not been a regular meeting or report submitted to the State Medicaid Agency on activities or the results of the additional subcommittees. The Developmental Disabilities Division will collaborate with the State Medicaid Office to identify the most efficient vehicle to share information on waiver activities.

The State Medicaid Agency will continue to review and sign all official correspondence to CMS. They will continue all the monitoring activities listed in the monitoring process. Once a meeting or report format has been finalized, it will be reviewed by the State Medicaid Agency.

**CMS Recommendations:** There are no recommendations at this time.

**State Response:** No additional information was requested.

**CMS Final Response:** No further comments.

## VI. State Provides Financial Accountability for the Waiver

**The State must demonstrate that it has designed and implemented an adequate system for assuring financial accountability of the waiver program.**
*Authority: 42 CFR §441.302-303; 42 CFR §441.308; 42 CFR §447.10; 42 CFR §447.200-205; 42 CFR §433; 45 CFR §74; SMM 2700.6; SMM 2500; SMM 4442.8-10; 1915(c) Version 3.5 HCBS Waiver Application and corresponding Instructions, Technical Guide & Review Criteria.*

**CMS Finding:** The State substantially met this assurance.

**Evidence Supporting Documentation:**

The State provided the following overview of its financial accountability system:

The waiver uses an Individually Budgeted Amount (IBA) system to allocate resources to individuals based upon need. The Individual Budget Amount Model is named the DOORS (not an acronym) and was identified by CMS as a Promising Practice in December 2004. Using the Individually Budgeted Amount, the participant and team identifies the services requested for a plan year through development of the annual service plan. Each service request requires review and approval by Division staff.

All services must receive a prior authorization number that is assigned through the MMIS. All billing for waiver services is submitted electronically through MMIS and all providers are paid through that system. There are many edits built into the MMIS that do not allow payment for more units or dollar requests above the amount approved. System edits include service codes with set rates, limits on number of days that can be billed in a month, number of hours that can be billed in a day, and other time specific rules which limit the amount of services that can be billed.

**Evidence: Sub-assurance: State financial oversight exists to assure that claims are coded and paid for in accordance with the reimbursement methodology specified in the approved waiver.**

1. In Fiscal Year 2007, 100% of waiver services were prior authorized by a waiver specialist in the Developmental Disabilities Division before services were delivered and could be reimbursed.
2. Numbers generated through the MMIS were used to complete the CMS 372 reports. These numbers were double-checked against claims data within the Division to assure accuracy.
3. In Fiscal Year 2007, there were six cases referred to Medicaid Fraud Unit (MFCU) from the Division involving 10 providers. These cases included the following:
   A. Two cases where case managers allegedly documented that home visits were completed on a monthly basis as required by the rules and billed for services. However, through the complaint process, it was alleged that home visits were not being completed and the case managers created documentation. One case resulted in decertification of the case manager and the second case is still pending.
   B. One provider organization was allegedly instructing staff to create or add to documentation so that it appeared staffing levels were appropriate. The Medicaid

Fraud Unit completed their investigation and could not substantiate this case. The Survey/Certification Unit of the Division completed ongoing unannounced visits during a six month period to assure staffing levels were appropriate. No concerns were found.

C. A provider providing in-home support services was allegedly billing for times that she was not providing services. Medicaid Fraud completed the investigation and did not substantiate the case.
D. A respite provider allegedly billed for services provided before she was added to a participants plan of care, even after being informed that she could not bill for services prior to the plan approval. Medicaid Fraud completed the investigation and did not substantiate the case. The Division worked with the Office of Healthcare Financing (Medicaid) to recover the funds in question and re-educate the provider on the requirements.
E. The Division received a complaint that respite providers for a participant were billing for services not provided. The complaint ultimately involved 5 providers and the Medicaid Fraud Control Unit found numerous instances of overlapping billing and inadequate documentation. Although no criminal activity was found, the appropriate providers were required to pay back the funds for services not adequately documented. This was coordinated with the Office of Healthcare Financing. Providers were also educated on documentation standards.

Wyoming Remediation/Action Plan:

Although the financial oversight is very thorough, the Division has realized that within the Individual Budgeted Amount system, there have been negotiated daily rates. The Division has been working with Navigant Consulting, Inc. for the past two years. They have worked first to evaluate the DOORS Individual Budget Amount (IBA) model and second to assist the state in establishing a rate-setting methodology. Through the process of establishing the new rates, three cost studies, a wage survey and supplementary surveys were completed of mostly larger service providers in the state. Also, Navigant and the Division established a service provider working group to guide the rate setting process; this included 4 CARF service providers. This working group had 5 meetings to review the process and provide input. On November 1, 2007 Navigant and the Division held a meeting with the 20 largest service providers in the State to review the draft rates and provided impact analysis. The service providers had the opportunity to ask questions and provide input. Furthermore, there were four select committee meetings in calendar year 2007 in which the rate setting process and concepts were presented and the public, including service providers, families and guardians had the opportunity to comment on the rate setting process.

This standardized and consistently applied rate methodology will go into effect beginning July 1, 2008. This transition will occur over the course of the fiscal year, as each plan of care is renewed. As the new rates are implemented, the Division will monitor the change and effects of the new reimbursement rates.

**CMS Recommendation:**

Please provide the quarter(s) on the CMS-64 report in which the federal share was returned in the cases where waiver dollars were recouped, as noted in the evidence section of this assurance.

**State Response:**

1. Of the six cases referred to Medicaid Fraud Unit (MFCU), five are still in process. An $80.00 recovery for NOWCAP can be found on 3Q2007 of the CMS-64 report.
2. The State did participate in the training for the "CMS 372 Submittal and Web-Basing and Process Changes." The state will use this format for CMS-372 lag report for Year 3, 2006-2007. This report will be submitted to CMS no later than December 31, 2008.

**CMS Final Response:** No further comments.